IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Mool Chand & Others Vs. The State of Rajasthan & Others
(SB Civil Writ Petition No.3639/1989)

SB Civil Writ Petition under Article
226 of the Constitution of India.

Date of order: November 14, 2006.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. S.P.Tyagi, for the petitioners.

Mr. M.L.Goyal, Addl. Government Advocate for respondents.

BY THE COURT:

Prayer of the petitioners, in the instant writ petition, is as under:-

(i) to quash the orders dated June 25, 1988 of Additional Collector (Ceiling) Kota and July 18, 1989 of Board of Revenue for Rajasthan Ajmer;
(ii) to declare that Mohan Lal is entitled to be recognised as separate unit and the lands held by him cannot be clubbed with his deceased father Amar Lal.
(iii) to drop the ceiling proceedings initiated under the old Ceiling Law against deceased Amar Lal and the petitioners.

2. Contextual facts depict that Sub Divisional Officer Kota (SDO) on April 26, 1975 dropped ceiling proceeding initiated under Chapter III-B

of Rajasthan Tenancy Act,1955 (for short `Old Ceiling Law') against deceased Amar Lal and co-tenant Buchi Lal. Deputy Secretary Revenue, Ceiling Department however on October 29, 1980 ordered reopening of ceiling case of deceased Amar Lal. The Additional Collector (Ceiling) Kota vide judgment dated June 25, 1988 held that lands in possession of deceased Amar Lal were ancestral properties in their hands and the petitioner Mool Chand was allowed to retain in lieu of his separate 1/3 share, 19.60 standard acres of land on the ground that he was major on April 1, 1966. The share of Mohan Lal was clubbed with that of deceased Amar Lal on the ground that Mohan Lal was minor on the appointed date i.e. April 1, 1966 and taking the holding of deceased Amar Lal to be 39.20 standard acres, he was allowed to retain 30 standard acres and 9.20 standard acres of land were declared surplus. However Buchilal's son Ram Karan was declared as separate unit and allowed to retain 1.56 standard acres of land as fragment. The appeal preferred against the order dated June 25, 1988 was dismissed by the Board of Revenue on July 18, 1989. Hence this petition.

3. The only contention of learned counsel for the petitioners is that Amar Lal's son Mohan Lal was major on April 1, 1966 and was wrongly treated dependant on Amar Lal. It is canvassed that in the return filed by Amar Lal on January 7, 1971 the age of Mohan Lal was shown as 20 years and according to report of Tehsil dated December 2, 1983 he was 18 years of age on April 1, 1966. There was no reason therefore for the Additional Collector to come to the conclusion that Mohan Lal was minor on the relevant date.

4. I find no substance in this contention. The reason is that in the suit

filed by Mohan Lal on April 4, 1966, he was shown as minor and he sued through Mool Chand as his next friend. It may further be noticed that there is no evidence on record to suggest that Mohan Lal was living separately from his father and was earning his livelihood. Mohan Lal had no land in his own name before April 1, 1966. The land came to the khatedari of Mohan Lal for the first time by decree of partition dated April 18, 1966. In the said suit, next friend of minor Mohan Lal viz.Mool Chand appeared as a witness on April 22, 1988. In his deposition Mool Chand did not say a word about Mohan Lal. In such a situation, I am of the view that Additional Collector (Ceiling) Kota and Board of Revenue have rightly held that on April 1, 1966 Mohan Lal was dependant on his father Amar Lal.

5. In the result, the writ petition being devoid of merit stands dismissed without any order as to costs.

(Shiv Kumar Sharma),J.

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